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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/680,411 | 10/08/2003 | Fred Sanford | 12780-023001 / 02,003 | 4319 |

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| EXAMINER |
|---|
| JARRETT, RYAN A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2125 | |

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 10/680,411 | SANFORD ET AL. |
| | Examiner | Art Unit | |
| | Ryan A. Jarrett | 2125 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>21 April 2006</u>.

2a)☒ This action is **FINAL**.    2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-20,22-29 and 38-46* is/are pending in the application.

    4a) Of the above claim(s) *11-20 and 22-29* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10 and 38-46* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All  b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

## DETAILED ACTION

### *Election/Restrictions*

1.      Applicant's election without traverse of Group I (Claims 1-10 and 38-46) in the

reply filed on 04/21/2006 is acknowledged.

Claims 11-20 and 22-29 are withdrawn from further consideration pursuant to 37

CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable

generic or linking claim.   Election was made **without** traverse in the reply filed on

04/21/2006.

### *Priority*

2.      Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e)

is acknowledged.

### *Specification*

3.     The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter.  See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).  Correction of the following is required:


Per claims 1 and 39, the specification does not appear to provide antecedent basis for

"a block configurator for controlling application object data generated for the at least one workstation".

On page 12 lines 5-16 of the instant specification, Applicant discloses that the block configurator user interface includes an install feature that saves block types to the block database and generates application object files and transfers the application object files to each specific block processor.

So, the specification discloses that the block configurator generates application object *files*, not "application object *data*", as currently claimed.  Furthermore, there is no disclosure at all of "controlling application object data", as is currently claimed.

Per claim 38, the specification does not appear to provide antecedent basis for

"wherein the block processor of the at least one workstation creates the applications

objects from application object files controlled by the processor of the service portal".

According to page 12 lines 5-16 of the instant specification, it is the block

configurator graphical user interface that generates the application object files and it is

the block manager that provides the application object files to each workstation.

According to this disclosure, the processor of the service portal does not generate or

provide the application object files, much less "control" the application object files, as is

currently claimed.

Appropriate correction is required.

### *Claim Interpretations*

4.     The following claimed terms are interpreted per their ordinary dictionary definitions, in this case, the Microsoft Computer Dictionary, Fifth Edition.

**application** *n.* A program designed to assist in the performance of a specific task, such as word processing, accounting, or inventory management.

**object** *n.* **1.** Short for object code (machine-readable code). **2.** In object-oriented programming, a variable comprising both routines and data that is treated as a discrete entity.  **3.** In graphics, a distinct entity. For example, a bouncing ball might be an object in a graphics program.  **4.**  A single, runtime instance of object type that the operating system defines.  Objects visible in user mode include event, file, I/O completion port, key, object directory, port, process, section, semaphore, symbolic link, thread, timer, and token objects.

**object file** *n.* A file containing object code, usually the output of a compiler or an assembler and the input for a linker.

## *Claim Rejections - 35 USC § 112*

5.      The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6.      Claims 1-10 and 38-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.


Claim 1 recites,

"a remote collector that collects parameter data from process field devices and application object data from at least one workstation associated with the process field devices", and

"a block configurator for controlling application object data generated for the at least one workstation from a central location".

Firstly, there is insufficient antecedent basis for the limitation "application object data generated for the at least one workstation" in the claim. The term "generated" is past tense, but there is no prior mention in the claim of the block configurator generating any application object data. Assuming that the block configurator is the device that "generates" the application object data, then the "generating" step should be positively recited, such as,

"a block configurator for controlling application object data and generating application object data for the at least one workstation from a central location".

This antecedent basis issue applies to claim 39 as well.

Secondly, it is not clear from the language of Claim 1 (or 38-39) whether the application object data is generated at the workstation or at the block configurator. On the one hand, Claim 1 recites that the application object data is collected from the workstation, which would imply that the application object data is generated at the workstation. On the other hand though, Claim 1 also recites a "block configurator for controlling application object data generated for the at least one workstation from a central location", which would imply that the application object data is generated at the block configurator. It does not appear logical that the application object data could conceivably be generated at two different locations. Therefore, clarification is required.

Regarding claim 1 and claim 38, where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999).

According to page 12 of Applicant's arguments filed 03/02/2006, the term "application object data" in claim 1 is used by the claim to mean or relate to "application objects that serve as data files that temporarily store the gathered data", while the accepted meaning is outlined above in the Claim Interpretation section. The definition provided by the Applicant does not mesh or correlate at all with any of the definitions outlined above in the Claim Interpretation section. The terms "application object data" and "application object" and "application object file" in the instant claims are indefinite because the specification does not clearly redefine the term.

Applicant further argues in the response filed 03/02/2006, "For example, application object data is process data associated with system resources, e.g., free memory, disk space, control processor loading, configurable operating system resources, and kernel resources." This is further evidence that the Applicant has not clearly redefined the claim term since Applicant argues that system resource data is only an "example" of application object data, as opposed to the definition of application object data. If Applicant wants "application object data" to mean system resource data, then the appropriate changes should be made in the language of the claim. Otherwise,

the term can be interpreted in light of its ordinary meaning, which renders the claim indefinite.

When the limitations "application object data" and/or "application object" and/or "application object file" of claims 1 and 38 are interpreted in view of their ordinary dictionary definitions, the claims as a whole become indefinite since the claims clearly do not make sense when these terms are interpreted in view of their ordinary dictionary definitions. The claims do not make sense in this context because the Applicant does not intend for these terms to take on their ordinary meanings. However, the fact remains that these are their ordinary meanings, and that cannot be changed. Since the Applicant has not clearly redefined the terms in the written description, the terms are indefinite.

Claims 2-10 and 39-46 depend on claims 1 and 38 and therefore incorporate the same deficiencies.

## *Conclusion*

7.      Applicant's amendment **filed 11/07/2005** necessitated the new ground(s) of rejection presented in this Office action.  Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).  Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Although there have been intervening correspondences between the Office and the Applicant since the filing of the amendment on 11/07/2005, the fact remains that the outstanding claim set remains unchanged from the amendment filed on 11/07/2005, with the exception that some claims have been withdrawn due to a restriction requirement.  The entire outstanding 112 $2^{nd}$ rejection detailed above is a direct result of the amendment filed on 11/07/2005.  In other words, since this final office action would have clearly been proper if it had been mailed immediately following the amendment filed 11/07/2005 (along with the final restriction requirement), it is therefore also proper now since the outstanding claims are unchanged since then.
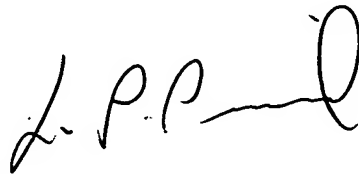
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action.  In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action.  In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan A. Jarrett whose telephone number is (571) 272-3742. The examiner can normally be reached on 10:00-6:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ryan A. Jarrett
Examiner
Art Unit 2125

7/5/06
RAJ

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